



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Joe Manchin III
Governor

Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

January 5, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 7, 2009 for the purpose of determining whether or not an Intentional Program Violation occurred.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations provide that an Intentional Program Violations shall consist of having intentionally: (1) made a false or misleading statement or misrepresented, concealed or withheld facts or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons. Individuals found to have committed an act of Intentional Program Violation will be ineligible for a specified time determined by the number of previous Intentional Program Violation disqualifications (Code of Federal Regulations - 7 CFR § 273.16).

The information submitted at your hearing revealed that you intentionally misrepresented your household composition at review receiving SNAP benefits for which you were not entitled to.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective February 2010.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Christine Allen, Repayment Investigator

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

-----,

Defendant,

v.

Action Number: 09-BOR-2072

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 7, 2009 for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on December 7, 2009.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of SNAP is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

-----, Defendant

Christine Allen, Repayment Investigator
George Mosko, Family Support Specialist

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not Defendant committed an Intentional Program Violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A
Code of Federal Regulations- 7 CFR § 273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 SNAP Claim Calculation Sheet
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Information from FACTS Computer System
- D-9 Narrative (TRNA) from OSCAR Computer System
- D-10 Notification Letter dated May 13, 2009
- D-11 Benefit Recovery Referral Screen (BVRF) from RAPIDS Computer System
- D-12 Combined Application Form dated May 12, 2009
- D-13 Rights and Responsibilities Form dated May 12, 2009
- D-14 Repayment Notification Letter dated October 7, 2009
- D-15 Notification of Intent to Disqualify dated October 7, 2009
- D-16 WV Income Maintenance Manual § 1.2 E
- D-17 WV Income Maintenance Manual § 9.1 A
- D-18 WV Income Maintenance Manual § 20
- D-19 Code of Federal Regulations- 7 CFR § 273.16

Defendant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Repayment Investigator,

Christine Allen, on October 19, 2009. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in SNAP for 12 months.

- 2) Defendant had a SNAP review on May 12, 2009. At the review, Defendant reported to her caseworker a decrease in her rent obligation. SNAP benefits were recertified for Defendant and her son (D-7).
- 3) In September 2009, Defendant's caseworker was notified by Child Protective Services that Defendant's son, -----, had been removed from her custody and placed in foster care in February 2009 (D-7, D-8 and D-9).

The Department contends Defendant falsely reported her son as a member of her household at her SNAP review in May 2009. Defendant was not eligible to receive SNAP benefits for her son while he did not reside with her. The result of Defendant's failure to report her son's removal from her household was an overpayment of SNAP of \$754, issued from June 2009 through October 2009.

- 4) George Mosko, Defendant's caseworker, testified that Defendant did not report to him that ----- was no longer in her household. Mr. Mosko stated Defendant was receiving WV WORKS benefits at the time and the removal of her only dependent child from her household would have closed her WV WORKS case. Mr. Mosko stated he would have remembered and taken action on Defendant's case had she reported her son out of the home.
- 5) Defendant testified that she called Mr. Mosko in February 2009 and left a voice mail message that ----- had been removed. At her review in May 2009, Mr. Mosko asked her how ----- was doing at which she responded she did not know since he was in the Department's custody. Defendant stated she was unsure if Mr. Mosko heard her since he did not look up from his computer when she said this. Defendant stated she assumed everything with her case was fine and that -----'s name was still in her case because she still had parental rights of him.
- 6) WV Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 7) WV Income Maintenance Manual § 9.1 A(1) states:

The SNAP AG [assistance group] must include all eligible individuals who both live together and purchase and prepare their meals together.

When an individual, who is included in an AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

- 8) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

- 9) Code of Federal Regulations- 7 CFR § 273.16 states:

An Intentional Program Violation shall consist of having intentionally:

(1) Made a false or misleading statement, or misrepresented, concealed or withheld facts, or

(2) Committed any act that constitutes a violation of the Food Stamp [SNAP] Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

VIII. CONCLUSIONS OF LAW:

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Defendant testified that she reported her son out of her household to her caseworker in February 2009 and at her SNAP review in May 2009. Defendant failed to produce any evidence to support this claim and credible testimony from Defendant's caseworker indicated Defendant did not in fact report her son out of her household.
- 3) Defendant misrepresented her household composition at her SNAP review in May 2009 resulting in an overpayment of SNAP benefits issued from June 2009 to October 2009 for which she was not eligible to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose and Intentional Program Violation against Defendant effective February 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th day of January 2010.

Kristi Logan
State Hearing Officer